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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,532	08/22/2003	Paul E. Kightlinger	20863 . 00	8114
37833	7590	09/22/2005		
LITMAN LAW OFFICES, LTD PO BOX 15035 CRYSTAL CITY STATION ARLINGTON, VA 22215				
			EXAMINER BERGIN, JAMES S	
			ART UNIT 3641	PAPER NUMBER

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,532

Applicant(s)

KIGHTLINGER, PAUL E.

Examiner

James S. Bergin

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3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,293,203 B1 (Alexander et al., hereinafter "Alexander") in view of RCBS LOAD CARTRIDGE DESIGNER UTILITY and Jamison et al. (US 6,354,221).

Regarding claims 20 and 23, Alexander discloses a cartridge for a bullet, comprising a body having a first body outside diameter of about 0.375 inches (col. 3, lines 64-67, 9.6 mm/ 0.3779 inches – note that 0.3779 inches is considered to be about 0.375 inches), a second body outside diameter C (col. 3, lines 50-55 and figure 2) which is less than or equal to the first body outside diameter; a body length I (figs. 1 & 2; col. 5, lines 25-30) of 0.623 inches (15.82 mm); an extraction groove (figs. 1-3); a total cartridge body length somewhere in the range of 17 mm to 26 mm (0.669 inches to 1.023 inches – col. 4, lines 15, 16); a cartridge neck (Figs. 1-3). Alexander discloses that in a preferred embodiment, the cartridge has a shoulder angle of 32 degrees (col. 5, line 35).

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Alexander's preferred embodiment has a tapered casing (col. 5, lines 25-30) with the second outside body diameter C being slightly less than the first outside body diameter B.

Alexander does not specifically teach that the embodiment with the first body outside diameter of about 0.375 inch (col. 3, lines 64-67) is tapered with a second body outside diameter of about 0.367 inches.

Alexander discloses that the body length "l" of the preferred embodiment is 0.623 inches (15.82 mm) but does not specifically disclose an embodiment with a body length in the range between 0.670 inches and 0.800 inches.

RCBS LOAD CARTRIDGE DESIGNER UTILITY discloses a utility that allows a user to experiment with a known cartridge case by varying any illustrated dimension thereof shown on the display screen, including modifying the body length of the case, modifying the body taper etc, to produce a customized cartridge having different properties (see especially pages 1 and 2).

In view of RCBS LOAD CARTRIDGE DESIGNER UTILITY, it would have been obvious to one of ordinary skill in the art at the time that the invention was made, to experiment with the Alexander cartridge case by varying its dimensions, including varying the length of the body and/ or adding a taper by reducing the outside diameter at the bullet end of the body, so as to produce a customized cartridge case to fit a particular weapon known to the user. It would have been further obvious to one of ordinary skill in the art at the time that the invention was made to select a second body outside diameter of about 0.367 inches and a body length in the range between 0.670

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and 0.800 inches since it has been held that discovering an optimum value or range of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980)) and *In re Aller*, 105 USPQ 233.

Alexander discloses a bullet velocity of not less than 518 meters per second (1699 fps) which velocity will cause a high velocity wound to a targeted individual (col. 2, lines 45-50). However in Fig. 5 of the Alexander patent appears to show a maximum muzzle velocity of about 2,000 fps. So Alexander does not specifically disclose that the bullet velocity is capable of reaching 2,500 fps.

However, Jamison '221 discloses H-414 propellant which can impart a velocity of up to 4,045 fps to a bullet.

In view of Jamison '221, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to use an amount of H-414 propellant in the Alexander cartridge casing modified above by LOAD CARTRIDGE DESIGNER UTILITY, so as to impart a velocity of greater than 2,500 fps or greater than about 3,000 fps to the bullet expelled therefrom.

Regarding claim 21, the Alexander cartridge is adapted for a handgun defined by Alexander as a pistol or a submachine gun (col. 2, lines 66, 67).

Regarding claim 22, the Alexander cartridge is adapted for use with self-loading, semi-automatic or automatic weapons (col. 3, lines 1, 2). Alexander's cartridge is inherently adapted for use in a rifle having the correct size receiver and chamber to accept the cartridge.

Response to Arguments

3. Applicant's arguments filed 7/5/2005 have been fully considered but they are not persuasive. The examiner believes that the new claims 20-23 have been properly rejected as being unpatentable over US 6,293,203 B1 (Alexander et al.) in view of RCBS LOAD CARTRIDGE DESIGNER UTILITY and Jamison et al. (US 6,354,221) as outlined above. It is noted that the applicant's disclosure makes no mention of what the propellant is or what percentage of the cartridge casing is filled by propellant to impart a velocity of greater than about 2,500 fps or greater than about 3,000 fps to the bullet expelled from the cartridge.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Bergin whose telephone number is 571-272-6872. The examiner can normally be reached on Monday - Wednesday and Friday, 8.30 - 5.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James S. Bergin



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER